

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DONALD E. UMBERGER,

Plaintiff,

v.

CITY OF SANTA ROSA, et al.,

Defendants.

Case No. [22-cv-03280-SI](#)

**ORDER GRANTING IFP, DISMISSING
COMPLAINT WITHOUT PREJUDICE,
AND MOOTING TRO WITHOUT
PREJUDICE TO IT BEING REFILED
AT A LATER DATE**

Re: Dkt. Nos. 2, 4

On June 3, 2022, plaintiff filed the instant action asking this Court to “stop [his] extrajudicial eviction [and] stop the harassment” plaintiff is allegedly experiencing at the hands of defendants. Dkt. No. 1 at 7¹ (Complaint). Plaintiff alleges defendant City of Santa Rosa is “extrajudicially evicting [him] from the property” where he has had tenancy in his “trailer conspicuous[ly] for 10 months.” Dkt. No. 4 at 3 (TRO).

Plaintiff also filed a motion for leave to proceed in forma pauperis. Dkt. No. 2. Plaintiff is self employed as a handy man earning approximately \$1200 per month with monthly expenses of approximately \$500 per month not including gas. Thus, plaintiff’s monthly income barely covers his expenses. The Court therefore GRANTS plaintiff’s motion to proceed in forma pauperis.

However, in an action in which a plaintiff seeks to proceed in forma pauperis, a district court must screen the complaint to fulfill its duty under 28 U.S.C. § 1915(e)(2)(B), which requires the court to dismiss a case if the court determines that the action is frivolous or malicious, fails to state a claim, or seeks monetary relief against a defendant who is immune from such relief. Pro se pleadings must be liberally construed. *See Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699

¹ For ease of reference, page number citations refer to the ECF branded number in the upper right corner of the page.

1 (9th Cir. 1990).

2 Plaintiff's complaint fails to state any causes of action. Further, the complaint fails to
3 establish subject matter jurisdiction. Generally, a federal district court will have subject matter
4 jurisdiction in two instances: (1) cases involving federal subject matter (causes of action brought
5 under federal law) or (2) diversity matters where the plaintiff and all defendants are citizens of
6 different states. See 28 U.S.C. §§ 1331 (Federal Question Jurisdiction) and 1332 (Diversity of
7 Citizenship). The plaintiff and defendants are all California residents/entities. Plaintiff attempts to
8 invoke federal question jurisdiction by stating his "First Claim" under 42 U.S.C. 1983 for defendants
9 "violating First, Fourth, Eighth, Fifth, Ninth, and Fourteenth Amendments." Dkt. No. 1 at 6.
10 However, this is the entirety of plaintiff's claim – there is no information about plaintiff's theory of
11 the case arising under any of those statutes nor does plaintiff include the who, what, when, where,
12 and how of his situation. Complaints must provide a narrative such that the Court can determine
13 subject matter jurisdiction and whether plaintiff has stated a claim.

14 For these reasons, the Court hereby DISMISSES the complaint WITHOUT prejudice.
15 Plaintiff may file an amended complaint addressing the issues of (1) failure to state causes of action
16 and (2) jurisdiction on or before July 5, 2020. If an amended complaint is not filed, the action will
17 be dismissed WITH prejudice.

18 In light of the Court dismissing the complaint, plaintiff's TRO (Dkt. No. 4) is rendered moot
19 without prejudice to it being refiled at a later date.

20 Plaintiff is also directed to review the Northern District of California's pro-bono
21 representation resources: <https://cand.uscourts.gov/pro-se-litigants/finding-a-lawyer/>

22 **IT IS SO ORDERED.**

23 Dated: June 14, 2022

24 

25 SUSAN ILLSTON
26 United States District Judge
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